

REMARKS

In a prior Official Action of December 2, 2005, the Examiner "provisionally rejected" claims 1-44 under the doctrine of non-statutory obviousness-type double patenting, as being unpatentable over claims 1-61 of co-pending U.S. Patent Application No. 10/089,051, filed March 25, 2002, along with other patentability rejections.


In their Reply under 37 C.F.R. § 1.111, timely filed on June 1, 2006, Applicants expressly traversed the provisional double patenting rejection as being premature because neither the present application nor co-pending U.S. Patent Application No. 10/089,051 has allowed claims, and further because the claims of both applications have been amended since the rejection. Also, requiring a terminal disclaimer in the present application is not appropriate because the present application has an earlier filing date (February 4, 2002) than co-pending U.S. Patent Application No. 10/089,051 (March 25, 2002), and, as stated above, neither application has allowed claims.

Accordingly, Applicants respectfully submit that their Reply under 37 C.F.R. § 1.111, filed on June 1, 2006, was fully responsive to the prior Official Action, and as indicated, Applicants expressly traversed the rejection and elected not to file a terminal disclaimer based on the traversal.

Further, Applicants would like to thank the Examiner for his courtesy in a brief telephone interview with Applicants' representative Van Ernest, on October 6, 2006, in which Mr. Ernest explained Applicants' position, as stated herein. Although no resolution was reached, the Examiner agreed to telephone Applicants' representative regarding reconsideration of Applicants' position prior to taking further action.

Should the Examiner have any questions concerning this Reply or the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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